

REMARKS

A. RESTRICTION REQUIREMENT

In response to the restriction requirement, Applicants elect to prosecute in this patent application Invention I, claims 1-5, drawn to a method for making a fibrin membrane. This response is made with traverse, and it is urged that the claims contained in Inventions I and II be examined together. Reconsideration is respectfully requested.

The Examiner indicated that the inventions are distinct. On the contrary, the products of Group II are necessarily used by the methods of Group I. As such, the search directed to the invention of the elected Group I will overlap a search strategy directed to the invention of the non-elected Group II. Accordingly, Applicants urge that there would not be an undue burden upon the Examiner to search and consider Groups I and II at the same time.

The Examiner indicated that the inventions listed in Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features. However, the technical feature of the present invention is described in claims 1-5 in Group I. Specifically, the method of claims 1-5 produce a fibrin membrane using calcium chloride as a clotting factor with blood plasma. Although JP 52156912 A teaches a method of making a fibrin membrane, this method uses thrombin as a clotting factor with a pure fibrinogen solution. The fibrin membrane according to the present invention demonstrates increased tensile strength and ability to be shaped over the prior art (see Examples 2, 3 and 4).

Additionally, all materials used in the method of the present invention are autoclavable, and therefore, capable of being fully sterilized until use. In contrast, thrombin of JP 52156912 A, cannot undergo autoclave sterilization without losing its active properties.

Thus, Groups I and II do relate to a single general inventive concept under PCT Rule 13.1

by sharing the same or corresponding special technical features. The instant invention is distinguished from JP 52156912 A.

In addition, the Examiner has the discretion to prosecute all of the pending claims in a single patent application. In fact, “[I]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” (Emphasis added; Manual of Patent Examining Procedure, § 803, second paragraph).

Thus, for reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw the present elections of species requirements.

There is no change in inventorship based upon this selection.

B. REJOINDER

Applicants reserve the right to request rejoinder of all appropriate claims removed by the Examiner in the event that the traversal is not found to be persuasive.

C. FEES

This response is being filed within the shortened period for response. Thus, no further fees are believed to be required. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as

incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

LUCAS & MERCANTI, LLP



Michael N. Mercanti

Reg. No. 33,966

LUCAS & MERCANTI, LLP
475 Park Avenue South
New York, New York 10016
Phone: 212-661-8000
Fax: 212-661-8002